

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THE CANADIAN ST. REGIS BAND
OF MOHAWK INDIANS,

Plaintiff,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

STATE OF NEW YORK, et al.,

Defendants.

Civil Action Nos.
82-CV-783
82-CV-1114
(NPM)

THE ST. REGIS MOHAWK TRIBE, by
THE ST. REGIS MOHAWK TRIBAL COUNCIL
and THE PEOPLE OF THE LONGHOUSE AT
AKWESASNE, by THE MOHAWK NATION COUNCIL
OF CHIEFS,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

STATE OF NEW YORK, et al.,

Defendants.

Civil Action No.
89-CV-829
(NPM)

**PLAINTIFF SAINT REGIS MOHAWK TRIBE'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff Saint Regis Mohawk Tribe hereby moves this court for partial summary judgment on three legal questions that are necessary to resolve in order for the Tribe to establish the prima facie case that it has stated a valid claim under the Nonintercourse Act, 25 U.S.C. §177, and resolving whether the Defendant's defenses of abandonment, release and relinquishment, and disestablishment or diminishment are valid.

In addition, the Municipal Defendants also allege a counterclaim that the Plaintiff Tribe's rights created by the 1796 Treaty were "ceded, released, relinquished and/or disestablished by" the state treaties at issue or by the 1838 Treaty of Buffalo Creek. Amended Answer, ¶119. The State Amended Answer also sets out counterclaims of diminishment and disestablishment, Counterclaims, ¶ 80, either through the State purchases or the Treaty of Buffalo Creek. Amended Answer, ¶84-85 and 90-92. The Tribe seeks summary judgment that the 1796 Treaty reservation has not been diminished or disestablished.

An affidavit, and memorandum of law in support are submitted in support of this motion. The Tribe hereby requests its motion be granted.

Respectfully submitted,

/s/ Marsha K. Schmidt

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